

Before the
Federal Communications Commission
Washington, DC 20554

2001 SEP -4 A 11: 22

In the Matter of)
)
Request for Review of the)
Decision of the)
Universal Service Administrator by)
)
Wishek Public School District)
Wishek, North Dakota)
)
Federal-State Joint Board on)
Universal Service)
)
Changes to the Board of Directors of the)
National Exchange Carrier Association, Inc.)

RECEIVED

SLD Control No. F002243

CC Docket No. 96-45

CC Docket No. 97-21 ✓

ORDER

Adopted: August 27, 2001

Released: August 28, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division (Division) has under consideration a Request for Review filed by Wishek Public School District No. 19 (Wishek), Wishek, North Dakota.¹ Wishek requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company to deny Wishek's application for discounted services under the schools and libraries universal service support mechanism.² For the reasons set forth below, we deny the Request for Review and affirm SLD's denial of Wishek's application.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ The Commission's rules provide that, with one limited exception for existing, binding contracts, an eligible school, library or consortium that includes eligible schools or libraries must seek

¹ Letter from Brian Duchscherer, Wishek Public School, to Federal Communications Commission, filed March 16, 2000 (Request for Review).

² Letter from Schools and Libraries Division, Universal Service Administrative Company, to Kenneth G. Reed, Wishek Public School District No. 19, dated May 12, 1998; Letter from Schools and Libraries Division, Universal Service Administrative Company, to Kenneth G. Reed, Wishek Public School District No. 19, dated February 15, 2000.

³ 47 C.F.R. §§ 54.502, 54.503.

competitive bids for all services eligible for support.⁴ In accordance with the Commission's rules, an applicant must file with SLD, for posting to its website, an FCC Form 470 requesting services.⁵ The applicant must wait 28 days before entering into an agreement with a service provider for the requested services and submitting an FCC Form 471 requesting support for the services ordered by the applicant.⁶

3. Upon review of the record, the Division concludes that SLD correctly denied Wishek's request for support. Wishek's FCC Form 470 was posted on April 1, 1998, and therefore, under the Commission's competitive bidding rules, Wishek was not permitted to sign its FCC Form 471 until April 29, 1998.⁷ However, Wishek signed and dated its form on April 11, 1998.⁸ Wishek then filed the form on April 13, 1998, before the filing window for Funding Year 1 closed on April 15, 1998.⁹ After SLD rejected and returned Wishek's FCC Form 471 because the signature date was prior to the end of the 28-day competitive bidding period, Wishek changed the signature date to May 15, 1998, and resubmitted the form.¹⁰ Wishek requests that the resubmitted FCC Form 471 be deemed timely.¹¹

4. A signature date on an FCC Form 471 or on a service provider agreement that predates the expiration of the 28-day posting period indicates that the applicant failed to wait 28 days before entering into an agreement with a service provider and therefore violated the Commission's competitive bidding rules.¹² The Common Carrier Bureau has consistently denied requests for review by applicants that had similarly violated the Commission's competitive bidding rules.¹³

⁴ 47 C.F.R. §§ 54.504, 54.511(c).

⁵ See Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (FCC Form 470).

⁶ 47 C.F.R. § 54.504(c); see Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (FCC Form 471).

⁷ See FCC Form 470, Wishek Public School District No. 19, filed April 1, 1998; 47 C.F.R. § 54.504(b)(4).

⁸ See FCC Form 471, Wishek Public School District No. 19, filed April 13, 1998.

⁹ See *id.*; *Request for Review by Be'er Hagolah Institutes, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-108710, CC Dockets No. 96-45 and 97-21, Order, 15 FCC Rcd 21809, para. 2 (Com. Car. Bur. 1999).

¹⁰ See Letter from Perry Turner, Wishek Public School District No. 19, to Schools and Libraries Division, Universal Service Administrative Company, filed March 11, 1999.

¹¹ See *id.*; *Request for Review*.

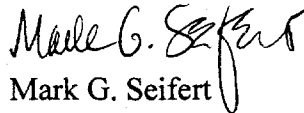
¹² See *Request for Review by Minor High School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-139210, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 13790, 13792, para. 5 (Com. Car. Bur. 2000).

¹³ See *Request for Review by Cathedral Grade School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-87608, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2953 (Com. Car. Bur. rel. Dec. 21, 1999); *Request for Review by Currituck County Schools Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National*

5. Although Wishek changed the signature date and resubmitted its FCC Form 471, Wishek's request that the resubmitted form be accepted contravenes the Commission's policy that applicants should not be permitted to amend completed FCC Forms 471 after closure of the filing window deadline.¹⁴ If applicants were permitted to correct their applications after SLD has denied them, it would eliminate any incentive to avoid making unauthorized service requests or to comply with the SLD's document demands in a timely fashion.¹⁵ This would significantly increase the administrative burden SLD would face while carrying out its obligation to guard against the occurrence of errors and fraud.¹⁶ Furthermore, if applicants were permitted to amend their requests after the filing window closed, it could jeopardize SLD's ability to accurately apply the rules of priority in years where requests for funding exceed the annual funding cap.¹⁷ Therefore, we conclude that SLD properly denied Wishek's request for funding.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91., 0.291, and 54.722(a), that the Request for Review filed by Wishek Public School, Wishek, North Dakota, on March 16, 2000, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Accounting Policy Division
Common Carrier Bureau

Exchange Carrier Association, Inc., File No. SLD-111040, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 5564 (2000); *Request for Review by Gustine Independent School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-108651, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2534 (Com. Car. Bur. rel. Nov. 16, 1999).

¹⁴ See *Request for Review by Free Library of Philadelphia, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-112605, CC Dockets No. 96-45 and 97-21, Order, 15 FCC Rcd 23820 (Com. Car. Bur. 2000).

¹⁵ See *Request for Review by Cheney Public Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-142969, CC Dockets No. 96-45 and 97-21, Order, DA 01-351 (Com. Car. Bur. rel. Feb. 13, 2001), at para. 6.

¹⁶ *Id.*

¹⁷ *Id.*